

IRREVOCABLE STANDBY LETTER OF CREDIT

[The Standby Letter of Credit shall preferably be on Bank Safety Paper and shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.]

Date: _____
Irrevocable Standby Letter of Credit No.: _____

Department of Toxic Substances Control
Financial Responsibility Unit
8800 Cal Center Drive
Sacramento, California 95826

Dear Sir or Madam:

Closure/Postclosure

We hereby establish our Irrevocable Standby Letter of Credit No. [insert number] in your favor, at the request and for the account of [insert owner's or operator's name and address] up to the aggregate amount of \$ [insert dollar amount], [insert spell out dollar amount] in United States dollars, available upon presentation of:

1. Your sight draft[s] on us bearing reference to this Irrevocable Standby Letter of Credit No. [insert number], and
2. Your signed and dated statement reading as follows:

"We certify that the amount of our draft drawn under [insert name of issuing institution] Irrevocable Standby Letter of Credit No. [insert number] is payable pursuant to regulations issued under authority of the California Hazardous Waste Control Law."

Each draft must be marked "Drawn under [insert name of issuing institution] Irrevocable Standby Letter of Credit No. [insert number] dated [insert date]".

Each draft must also be accompanied by the original of this Irrevocable Standby Letter of Credit upon which we may endorse our payment. This Irrevocable Standby Letter of Credit is effective as of [insert date] and shall expire on [insert date at least one year from effective date], but such expiration date shall be automatically extended for a period of at least [insert at least one year] on [insert date] and on each successive expiration date, unless at least 120 days before the current expiration date, we notify both you and [insert owner or operator name] by certified mail that we have decided not to extend this Irrevocable Standby Letter of Credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [insert owner or operator name], as shown on the signed return receipts.

Whenever the Irrevocable Standby Letter of Credit is drawn on, under, and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [insert owner or operator name] in accordance with your instructions.

Liability Coverage

We hereby establish our Irrevocable Standby Letter of Credit No. [Insert number] in favor of [insert either "any and all third-party liability claimants", or "name of trustee of the Standby Trust fund"], at the request and for the account of [insert owner's or operator's name and address] for third-party liability awards or settlements up to [insert spell out dollar amount] \$ [insert dollar amount] in United States dollars per occurrence, and the annual aggregate amount of [insert spell out dollar amount] \$[insert dollar amount] in United States dollars for sudden accidental occurrences and/or for third-party liability awards or settlements up to the amount of [insert spell out dollar amount] \$[insert dollar amount] in United States dollars per occurrence, and the annual aggregate amount of [insert spell out dollar amount], \$[insert dollar amount] in United States dollars for nonsudden accidental occurrences available upon presentation of a sight draft, bearing reference to this Irrevocable Standby Letter of Credit No. [insert number], and [insert the following language if the letter of credit is being used without a standby trust fund:

[1] A signed certificate reading as follows:

Certificate of Valid Claim

The undersigned, as parties [insert principal name and insert name and address of third-party claimant(s)] hereby certify that the claim of bodily injury [insert and/or] property damage caused by a [insert "sudden" or "nonsudden"] accidental occurrence arising from operations of [insert principal name] hazardous waste transfer, treatment, storage, or disposal facility should be paid in the amount of \$[insert dollar amount]. We hereby certify that the claim does not apply to any of the following:

[a] Bodily injury or property damage for which [insert principal name] is obligated to pay damages by reason of assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert principal name] would be obligated to pay in the absence of the contract or agreement.

[b] Any obligation of [insert principal name]; under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

[c] Bodily injury to:

[1] An employee of [insert principal name] arising from, and in the course of, employment by [insert principal name]; or

[2] The spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert principal name]. This exclusion applies:

[A] Whether [insert principal name] may be liable as an employer or in any other capacity; and

[B] To any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs [1] and [2].

[d] Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

[e] Property damage to:

[1] Any property owned, rented, or occupied by [insert principal name];

[2] Premises that are sold, given away, or abandoned by [insert principal name] if the property damage arises out of any part of those premises;

[3] Property loaned to [insert principal name];

[4] Personal property in the care, custody, or control of [insert principal name];

[5] That particular part of real property on which [insert principal name] or any contractors or subcontractors working directly or indirectly on behalf of [insert principal name] are performing operations, if the property damage arises out of these operations.

[Signatures]

Principal _____

[Signatures]

Claimant[s] _____

Or:

[2] A valid final court order establishing a judgment against the Principal for bodily injury or property damage caused by a sudden or nonsudden accidental occurrence arising from operation of the Principal's facility or group of facilities/units.

This Irrevocable Standby Letter of Credit is effective as of [insert date] and shall expire on [insert date at least one year from effective date], but such expiration date shall be automatically extended for a period of at least [insert at least one year] on [insert date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [insert owner or operator name] by certified mail that we have decided not to extend this Irrevocable Standby Letter of Credit beyond the current expiration date.

Whenever this Irrevocable Standby Letter of Credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us.

Include the following language on the Irrevocable Standby Letter of Credit for closure and/or postclosure and/or liability coverage:

We certify that the wording of this Irrevocable Standby Letter of Credit is identical to the wording required in form DTSC 1157 as specified in California Code of Regulations (Cal. Code of Regs.), Title 22, Division 4.5, Chapter 14 and 15, Article 8.

In the event this Irrevocable Standby Letter of Credit is used in combination with another mechanism, this Irrevocable Standby Letter of Credit shall be considered [insert "primary" or "excess"] coverage.

This credit is subject to [insert the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce, or "the Uniform Commercial Code."]

[Signature[s] of official[s] of issuing institution] _____

[Title[s] of official[s] of issuing institution] _____

[Address of official[s] of issuing institution] _____

[Date official[s] of issuing institution sign] _____

PRIVACY STATEMENT

This information is requested by the Department of Toxic Substances Control under Health and Safety Code, Section 25245, in order to verify adequate financial assurance of hazardous waste facilities/transportable treatment units [TTUs]/fixed treatment units [FTUs]. Completion of the form is mandatory. The consequence of not completing the form is denial of a permit to operate a hazardous waste facility/TTU/FTU. Information may be provided to U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Integrated Waste Management Board, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the Department of Toxic Substances Control 8800 Cal Center Drive, Sacramento, California, 95826, (916) 255-3545.